

MIAMI BEACH

OFFICE OF THE CITY MANAGER

No. **466-2016**

LETTER TO COMMISSION

TO: Mayor Philip Levine and Members of the City Commission

FROM: Rafael E. Granado, City Clerk 

DATE: October 31, 2016

SUBJECT: **SOUTH MIAMI RESOLUTION**

Attached for your information is Resolution No. 196-16-14751, adopted by the Mayor and Commission of the City of South Miami on October 5, 2016.

A RESOLUTION OF THE CITY OF SOUTH MIAMI EXPOSING THE HIDDEN AGENDA BEHIND AMENDMENT 1 BALLOT QUESTION TITLED "RIGHTS OF ELECTRICITY CONSUMERS REGARDING SOLAR ENERGY CHOICE", SCHEDULED FOR NOVEMBER 8, 2016 GENERAL ELECTION BALLOT, AND INFORMING THE PUBLIC OF THE FACTS SURROUNDING THE AMENDMENT AND ITS EFFECTS AND RAMIFICATIONS.

The City of South Miami has requested that a copy of this resolution be provided to the Miami Beach Mayor and Commissioners.

If you have any questions, please contact the Office of the City Clerk at 305.673.7411.

JLM/REG

Attachment

RESOLUTION NO. 196-16-14751

A Resolution of the City of South Miami exposing the hidden agenda behind Amendment 1 ballot question titled "Rights of Electricity Consumers Regarding Solar Energy Choice", scheduled for November 8, 2016 General Election Ballot, and informing the public of the facts surrounding the amendment and its effects and ramifications.

WHEREAS, Florida spends billions of dollars each year purchasing carbon-based fuels from other states and countries to power its homes, businesses, and vehicles, while solar power will keep energy dollars in the state and create good-paying local sales, installation, and maintenance jobs; and

WHEREAS, solar photovoltaic energy offers many potential benefits, including: lower electricity costs for homeowners, businesses, and governments; local jobs and economic development; reduced dependence on imported fuels; pollution-free electricity generation; no water use; and contribution to a more resilient electric grid; and

WHEREAS, Florida has the third-highest potential for rooftop solar energy generation in the United States, but currently ranks 14th in the nation for installed solar capacity, according to the Solar Energy Industry Association; and

WHEREAS, in the eastern United States, Florida has the greatest potential for rooftop solar power of any state yet, according to The Gainesville Sun news, with 9 million electric utility customer accounts, less than 12,000 customer-sited solar electric systems exist in Florida; and

WHEREAS, New Jersey, which only has half the population of Florida and does not enjoy the same abundance of sunlight that exists in the "Sunshine State", has over 43,000 customer-sited solar electric systems, according to The Gainesville Sun; and

WHEREAS, increased solar-generated electricity, including customer-sited systems on residential and commercial properties, will be a key strategy for achieving this community-wide goal of maximizing the utilization of Florida's abundance of sunlight; and

WHEREAS, the resounding passage of Amendment 4 which authorizes the Florida Legislature to exempt solar and other renewable energy systems from both residential and commercial property appraisals and from the tangible personal property tax by the voters on August 30, 2016 shows that a majority of Floridians want more rights and less restrictions; and

WHEREAS, Amendment 1, titled "Rights of Electricity Consumers Regarding Solar Energy Choice," will be presented to voters at the November 8, 2016 general election; and

WHEREAS, Amendment 1 purports to provide a new "choice" for solar power in its title, but no choices are provided in Amendment 1 and no new solar rights are created, but instead, Amendment 1 will place critical restrictions on existing solar rights in the Florida Constitution according to Florida Supreme Court Justice Barbara Pariente in her dissent in *Advisory Opinion to Atty. Gen. re Rights of Electricity Consumers regarding Solar Energy Choice*, 188 So.3d 822 (Fla. 2016); and

WHEREAS, Justice Barbara Pariente wrote a minority opinion, supported by two other justices, to warn the voters of a bait and switch tactic and stated:

"Let the pro-solar energy consumers beware. Masquerading as a pro-solar energy initiative, this proposed constitutional amendment, supported by some of Florida's major investor-owned electric utility companies, actually seeks to constitutionalize the status quo. Due to the use and definitions of certain terms within the proposed amendment, it may actually have the effect of diminishing some rights of solar energy consumers. For example, a group of environmental groups who filed a brief in opposition assert that this amendment will eliminate" [a very desirable method of payment called] "'pay-by-the-watt' leases by narrowly defining 'lease,' rendering many ordinary consumers unable to afford the 'tens of thousands of dollars to purchase solar panels."

The minority also felt that "[t]he ballot title is affirmatively misleading by its focus on 'Solar Energy Choice,' when no real choice exists for those who favor expansion of solar energy." Also the minority found that "[t]he ballot language is further defective for purporting to grant rights to solar energy consumers that are illusory; and failing, as required, to clearly and unambiguously set forth the chief purpose of the proposed amendment — to maintain the status quo favoring the very electric utilities who are the proponents of this amendment."

The minority opinion points out that "[w]hat the ballot summary does not say is that there is already a right to use solar equipment for individual use afforded by the Florida Constitution and existing Florida statutes and regulations. It does not explain that the amendment will elevate the existing rights of the government to regulate solar energy use and establish that regulatory power as a constitutional right in Florida. This is a glaring omission, especially since rights enshrined in the Constitution are generally intended to limit, rather than grant, governmental power." *** "This ballot initiative is the proverbial 'wolf in sheep's clothing.'"

The minority noted that:

"[the title of the ballot question] ... does not illuminate the real purpose, namely, to place a critical restriction on those rights [to use solar equipment] through elevating state and local governments' police powers to regulate solar energy to the constitutional level."

"The ballot summary does not make clear that the right of homeowners to own solar equipment for their own use already exists. As a result, it

creates a false impression that a vote in favor of the amendment is necessary for the voter to be afforded the right at all.”

“The impact is that the constitutional right that the amendment purportedly creates in the first section [of Amendment 1] is seriously diminished in the second section [of Amendment 1]. The proposed amendment would have the practical effect of maintaining the status quo with the balance of power in the hands of the utility companies.”

“Clearly, this is an amendment geared to ensure nothing changes with respect to the use of solar energy in Florida — it is not a "pro-solar" amendment.”

WHEREAS, Amendment 1 will establish a constitutional right and then give the government unbridled discretion to limit that right by later defining the meaning of the word “subsidy”; and

WHEREAS, Amendment 1 will insert in the Florida Constitution an unsupported, misleading, and inaccurate presumption that solar rooftop customers are "subsidized" by solar customers; and

WHEREAS, Amendment 1 implies that the solar customers are not paying their fair share of the cost of the grid and that FP&L will be forced to charge the non-solar customer to pay for the cost not being paid by the solar customers. There has been no evidence that this has occurred but even if it does, there is no need for a constitutional amendment since the state has the right to regulate what FPL charges its customers without a constitutional amendment. Moreover, solar electricity is more efficient than electricity generated at a power plant. The electricity that starts at the power plant dissipates as it travels along the transmission lines and requires that extra electricity be generated to compensate for the loss in the transmission process whereas solar electricity that is put into the grid reduces the cost to all customers since the solar electricity is used locally. In addition, and currently, at the end of the year, solar customers who have a net gain are only paid a fraction of what the power company charges its customers; and

WHEREAS, Amendment 1, if it passes, can be used to weaken or eliminate the state's net metering policy; and

WHEREAS, the Florida Center for Investigative Reporting (“FCIR”) reported that, as early as April of 2015, there was already legislation circulating in Tallahassee in an attempt to stop homeowners with solar power from selling extra energy back to utility companies; and

WHEREAS, FCIR found that from 2010 to 2015 utility companies had invested \$12 million into the campaigns of state lawmakers. When FCIR asked one West Palm Beach lobbyist who represents solar companies why we don’t have a bigger solar industry

in Florida, the lobbyist said: "The answer is simple. Every kilowatt of solar you produce on your roof is one less kilowatt that the utilities can sell you."; and

WHEREAS, Amendment 1 is sponsored by an organization called Consumers for SmartSolar which appears to be primarily bankrolled by the state's big power companies all of whom appear to be opposed to the current net metering policy; and

WHEREAS, the ballot question for Amendment 1 is titled "Rights of Electricity Consumers Regarding Solar Energy Choice" and, as it is described above, it is detrimental to the City of South Miami's previously expressed support for efforts to increase solar energy generation and other forms of renewable energy in the City of South Miami, and in the State of Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, THAT:

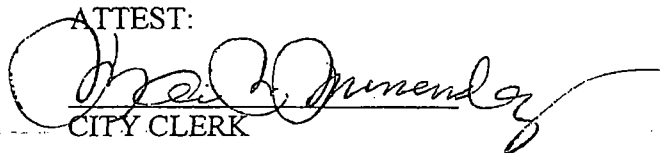
Section 1. The City Commission finds that the recital set forth hereinabove are true and correct and they are hereby adopted by reference as if set forth in full herein.

Section 2. The City Clerk is hereby instructed to send a copy of this resolution to all the voters of the City of South Miami as well as to all the Cities and Counties in the state of Florida for the purpose of informing them of the facts surrounding Amendment 1, the effect that the amendment will have on the consumers of electricity, the ramifications of the amendment and the apparent agenda of the supporters of this proposed constitutional amendment.

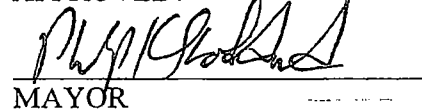
Section 3. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 5th day of October, 2016.

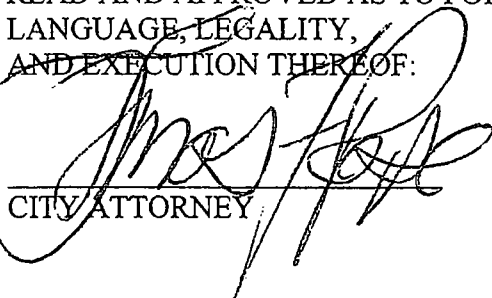
ATTEST:


CITY CLERK

APPROVED:


MAYOR

READ AND APPROVED AS TO FORM,
LANGUAGE, LEGALITY,
AND EXECUTION THEREOF:


CITY ATTORNEY

COMMISSION VOTE	5-0
Mayor Stoddard:	Yea
Vice Mayor Welsh:	Yea
Commissioner Edmond:	Yea
Commissioner Harris:	Yea
Commissioner Liebman:	Yea